

## PROPERTY ASSESSMENT APPEAL BOARD

### FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-025-00168R

Parcel No. 07-32-178-019

**Scott Dickens,**

Appellant,

vs.

**Dallas County Board of Review,**

Appellee.

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#### Introduction

This appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on November 8, 2019. Scott Dickens was self-represented and asked the appeal proceed without a hearing. Dallas County Assessor Steve Helm represents the Board of Review.

Scott and Cinnamon Dickens own a residential property located at 129 Lake Shore Drive, Dallas Center. The property's January 1, 2019, assessment was set at \$470,310. (Ex. B).

Dickens petitioned the Board of Review contending his assessment was not equitable as compared with assessments of other like property. Iowa Code § 441.37(1)(a)(1). (Ex. C). The Board of Review modified the assessment to \$460,000, allocated as \$55,000 in land value and \$405,000 in improvement value. (Exs. A & B).

Dickens reasserted his claim to PAAB. In addition to his inequity claim, Dickens now also asserts his property is assessed for more than the value authorized by law under section 441.37(1)(a)(2). (Ex. 1).

## **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(2-4). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

## **Findings of Fact**

The subject is a one-story home built in 2016 on a 0.56-acre site. It has 2353 square feet of gross living area with 1775 square feet of living-quarter quality finish in the walk-out basement. It also has two open porches, a deck, a patio, and a three-car attached garage. The dwelling is listed in normal condition with a 2+05 (high quality) grade. (Ex. A).

The Dickens purchased the subject property in June 2019 for \$360,000. (Ex. A). Scott Dickens submitted an appraisal completed by Brad Albertson of Albertson Appraisal, LLC, Altoona, Iowa. The appraisal was completed for mortgage loan purposes contemporaneous to the Dickens' purchase and concludes a value for the property of \$390,000 as of May 2019. (Ex. 1).

Albertson developed both the sales comparison and cost approaches to value. He did not give the cost approach any weight because, in his opinion, it "lacks data to determine depreciation and therefore does not influence the subject property." (Ex. 1, p. 4).

Albertson reported the subject sale as being arms-length with a list price of \$399,000. (Ex.1 p. 3). However, he also noted the subject property previously transferred in March 2019 as the result of a Sheriff's Sale. (Ex. 1, p. 4).

The Board of Review reported a more detailed listing history for the subject over the past twelve months. (Ex. D). It reported the subject had an original list price of

\$490,000 in April 2018, which was reduced to \$465,000 before being removed from the market in September 2018. The Board of Review further noted the property was subsequently foreclosed by American Trust and Savings Bank. This is confirmed by the property record card, which identified the subject property transferred in March 2019 for \$0 with a sales condition code of D12.3, which indicates the transaction was forfeiture. (Ex. A, p. 1). The Dickenses then purchased the property from the bank for \$360,000 in June 2019. (Ex. 2). The property record card lists the Dickenses' purchase as a forced sale. (Ex. A). The Board of Review criticized Albertson for his lack of reporting and analysis of these sale conditions and their effect on its sale price. It cites Iowa Code section 441.21(1)(b)(1) that provides abnormal transactions such as foreclosure sales shall not be taken into account or must be adjusted to eliminate the effect of those factors which distort market value.

Albertson analyzed four sales that sold between June 2018 and February 2019, which are summarized in the following table. (Ex. 1, pp. 4 & 6).

Comparable	Sale Price	Gross Living Area (SF)	Basement Finish (SF)	Adjusted Sale Price
Subject, Dallas Center		2353	1902	
1 – 808 Shelby Dr, Adel	\$364,900	1620	885	\$389,885
2 – 800 SW 8th Ct, Grimes	\$428,104	2084	1751	\$391,209
3 – 121 Lake Shore Dr, Dallas Center	\$462,000	2486	None	\$441,015
4 – 30233 210th St, Dallas Center	\$365,000	2257	725	\$410,820

The properties Albertson chose were one-story or one-and-one-half story properties. Albertson notes “sales data is extremely limited due to the subject’s custom construction, large GLA, larger lower level finish, water view” and its location. (Ex. 1, p. 7). Albertson adjusted the sales for differences between them and the subject property including for site size, view, quality of construction, room count, size, basement finish, and additional amenities. After adjustments, the sales indicated a range in value from \$390,000 to \$441,000 and Albertson concluded a value of \$390,000 for the subject property “due to the influence of Sale 1.” (Ex. 1 p. 7). This was despite his statement that “the mid-range is supported” given the subject’s amenities. (Ex. 1 p. 7).

The Board of Review was critical of Albertson's adjustments, especially the ones made for quality. Furthermore, the Board of Review asserts sales of more similar comparables were available and Albertson's reconciliation is flawed.

Albertson adjusted Comparable 1 downward \$35,000 for quality. The Board of Review believes Comparable 1 is inferior in quality compared to the subject and should have been adjusted upward instead of downward. (Ex. D). The Board of Review reported Comparable 1 was built as a speculative home and has been assigned an inferior grade (quality) rating of 2-10; it also has eight-foot ceilings and a gable roof. Comparatively, the subject was a custom built home, with a higher grade rating (2+05), nine-foot ceilings, and a hip roof.

The Board of Review asserts Albertson overlooked a sale located at 115 Lake Shore Drive that sold in December 2017 for \$478,000, and had a prior 2014 sale price of \$507,908. (Ex. D).

Lastly, the Board of Review was critical of Albertson's reconciliation giving most weight to Comparable 1. Albertson stated that "due to the influence of sale 1 the appraiser's opinion of value is moderated toward the lower range of \$390,000." (Ex. 1, p. 7). The Board of Review noted Comparable 1 has one of the highest net and gross adjustment percentages in Albertson's analysis. It argues higher adjustment percentages would suggest a property has less comparability to the subject than a sale requiring fewer adjustments. The Board of Review also noted Albertson's Comparable 3 was located on subject's same street with similar views, required the fewest adjustments, and had an adjusted value over \$441,000 but was given no weight.

The Board of Review submitted four sales adjusted for differences between them and the subject property. (Ex. E). The following table summarizes the Board of Review's comparable sales analysis.

Comparable Sale	Site Size (Acres)	Year Built	Gross Living Area (SF)	Basement Finish	Sale Price	Sale Date	Adjusted Sale Price
Subject, Dallas Center	0.56	2016	2353	1775			
1 – 115 Lake Shore Dr, Dallas Center	0.72	2014	2084	1725	\$478,000	Dec-17	\$493,830
2 – 202 North Point Ln, Dallas Center	0.56	2017	1817	1325	\$380,733	Jan-18	\$412,603
3 – 22965 Valley View Trail, Adel	1.03	2010	2036	1614	\$465,000	Jun-19	\$474,680
4 – 22985 Valley View Trail, Adel	1.03	2010	1963	1730	\$457,500	Nov-18	\$468,725

All of the sales the Board of Review provided are one-story homes like the subject. Sales 1 and 2 are located in the subject's subdivision. Sales 3 and 4 are in other rural subdivisions located 4.5 miles from the subject. (Ex. E).

The Board of Review relied on the adjustments Albertson used in his appraisal for most differences, and added adjustments for fireplaces and geothermal from an Iowa Realty report. (Ex. J). Because the Board of Review did not agree with quality adjustments made in the Albertson Appraisal, it chose to forgo making quality adjustments to its comparables. After adjustments the indicated range of value is between \$412,603 to \$493,830. Based on this analysis, the Board of Review concludes a more accurate range of value is approximately \$410,000 to \$490,000 instead of the \$390,000 to \$441,000 range of value opined by Albertson. (Ex. D).

### **Analysis & Conclusions of Law**

Dickens asserts the subject property is inequitably assessed and assessed for more than the value authorized by law. § 441.37(1)(a)(1 & 2).

The burden of proof is upon the taxpayer, who “must establish a ground for protest by a preponderance of the evidence. *Compiano*, 771 N.W.2d at 396. But when the taxpayer “offers competent evidence that the market value of the property is different than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation.” Iowa Code § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 782 (Iowa 2009) (citations omitted).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Dickens offered no evidence that the Assessor applied an assessment method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019 assessments) of comparable properties, the subject property is assessed at a higher portion of its actual value. The record includes several 2018 sales, but because the *Maxwell* test requires a showing of the subject property's actual market value and Dickens' over assessment claim requires the same showing, we forgo further equity analysis and turn to the over assessment claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer*, 759 N.W.2d at 780.

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* The sales comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990).

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W.2d at 783. "Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court." *Id.* at 782 (*citing Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)). Similar does not mean identical and properties may be considered similar even if they possess various points of difference. *Id.* (other citations

omitted). “Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘[s]ize, use, location and character,’ and, with respect to the sale, its nature and timing. *Id.* (other citations omitted). Sale prices must be adjusted “to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments”. *Id.* (other citations omitted).

Although the subject property recently sold for \$360,000,<sup>1</sup> Dickens relies on the Albertson appraisal valuing his property at \$390,000. Dickens contends Albertson’s appraisal supports his claim the property is over assessed and requests the assessment be set at that amount. The appraisal values the property following the statutory scheme and therefore the burden of proof has been shifted to the Board of Review to uphold the assessment.

To support the subject’s assessed value the Board of Review submitted four recent sales, two of which are located in the subject’s immediate subdivision, and adjusted them for many of their differences. While it may give some support for the assessed value and additional support that Albertson’s reconciliation to the low end of his range of value is not reasonable, the amount of consideration that can be given the Board of Review’s sales is somewhat limited by the large value range. We note the large range may be due to an outlier but no explanation has been given in the record why this range exists.

The Board of Review is also critical of Albertson’s appraisal. It believes Albertson’s analysis is flawed and his resulting opinion should not be relied on. The Board of Review identified errors and omissions in the appraisal, such as incomplete reporting of the subject’s listing history, incorrect analysis of the subject sale, and a general lack of logic in the reconciliation. The Board of Review also believes Albertson overlooked a nearby sale. We agree some of these issues impact the persuasiveness of Albertson’s final conclusion of value but do not believe it renders the appraisal entirely unreliable.

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<sup>1</sup> Even if Dickens had asserted the subject’s assessment should be set at its sales price, we do not find the sale to be a normal transaction under section 441.21(1) and no adjustment was made to eliminate the factors distorting market value.

Viewing the record as a whole, we conclude the Board of Review has not shown the current assessed value should be upheld. The Albertson appraisal complies with the statutory scheme, is the most complete valuation of the subject in the record, and we believe it is generally reliable. We find the Board of Review's criticisms of the appraisal to be valid, however, and take them into account when determining the subject's correct value. *Compiano*, 771 N.W.2d at 397 (if the grounds of protest have been established, the property's correct value must be determined based on all the evidence) (citations omitted).

We cannot accept Albertson's reconciliation at the low end of his range of value when his narrative description states "the mid-range is supported" and the top end of the range is supported by a comparable closest to the subject and requiring the fewest adjustments. We give most consideration to Albertson's Comparable 3 and find the top end of the value range the best indication of value in the record. The Board of Review submitted four sales into the record that indicated a value for the subject from \$410,000 to \$490,000. We therefore find \$441,000 to be supported by both the Albertson appraisal and the Board of Review's analysis.


## **Order**

PAAB HEREBY MODIFIES the Dallas County Board of Review's action. Based on the foregoing, we order the subject property's January 1, 2019 assessed value be set at \$441,000, allocated as \$55,000 in land value and \$386,000 in improvement value.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2019).



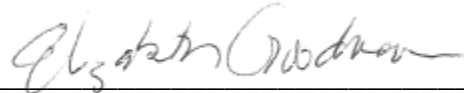
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Dennis Loll, Board Member



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Karen Oberman, Board Member



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Elizabeth Goodman, Board Member

Copies to:

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